

MEMO ENDORSED



ACLU of New York

June 16, 2025

VIA ECF

Honorable Nelson S. Román
 United States District Judge
 United States District Court, Southern District of New York
 The Honorable Charles L. Brieant Jr. Federal Building and United States Courthouse
 300 Quarropas Street
 White Plains, New York 10601-4150

Re: *Deide, et al. v. Day, et al.*, No. 23-cv-3954 (NSR/VR)

Dear Judge Román:

We represent the plaintiffs in the above-referenced matter and write in response to the Court's order, ECF 140, to respectfully withdraw the plaintiffs' motion for attorney's fees and costs, ECF 127, along with the materials submitted in support of that motion.

As the Court is aware, the Supreme Court recently decided *Lackey v. Stinnie*, 145 S. Ct. 659 (2025), which holds that “[a] preliminary injunction . . . does not render a plaintiff a ‘prevailing party.’” *Id.* at 671. This holding likely abrogates Second Circuit precedent upon which the plaintiffs relied in their fees motion holding that plaintiffs who are awarded a preliminary injunction are prevailing parties. *See* ECF 128 at 6-7 (citing *Haley v. Pataki*, 106 F.3d 478, 483 (2d Cir. 1997)).

The plaintiffs have determined that *Lackey v. Stinnie* governs the central issue in their motion for attorney's fees, and therefore submit this letter to withdraw that motion in lieu of filing supplemental briefing in support of that motion. The plaintiffs have notified the defendants of their intent to withdraw the motion.

We thank the Court for its consideration.

Respectfully submitted,

/s/ Ifeyinwa Chikezie
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Plaintiffs' request to withdraw their motion for attorney's fees and costs is GRANTED. The Clerk of Court is kindly directed to terminate the motion at ECF No. 127.

Dated: June 16, 2025

White Plains, NY

SO ORDERED:

 NELSON S. ROMÁN
 United States District Judge

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Counsel for the Plaintiffs